

AMENDED IN ASSEMBLY APRIL 24, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1863

**Introduced by Committee on Higher Education (Alquist (Chair),
Bogh (Vice Chair), Chu, Havice, Liu, Lowenthal, Matthews,
Negrete McLeod, Robert Pacheco, and Wyman)**

January 31, 2002

An act to amend ~~Section 1798.74 of the Civil Code, and to amend~~
Section 89030.1 of the Education Code, relating to education.

LEGISLATIVE COUNSEL'S DIGEST

AB 1863, as amended, Committee on Higher Education. ~~Education: student records~~ *California State University*: regulations.

(1) ~~The Information Practice Act requires provisions contained in an obsolete chapter of the Education Code to prevail, as to student records, over provisions contained in that act.~~

~~This bill would delete reference to the obsolete Education Code chapter and would instead reference a provision contained in federal law restricting the availability of federal funds to any educational agency or institution, as defined in federal law, that improperly restricts the inspection and review of a student's education records, as defined in federal law.~~

(2) ~~Existing law establishes the California State University under the administration of the Trustees of the California State University. Existing law, to be repealed as of January 1, 2003, sets forth a procedure for the adoption of regulations by the trustees, and requires the trustees~~

to follow that procedure rather than the procedure set forth in the Administrative Procedure Act.

This bill would delete the repeal of this provision, thereby continuing the unique regulatory adoption procedure indefinitely.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 1798.74 of the Civil Code is amended~~
2 ~~to read:~~

3 ~~1798.74. Section 1232g of Title 20 of the United States Code~~
4 ~~shall, with regard to student records, prevail over this chapter.~~

5 ~~SEC. 2.—~~

6 *SECTION 1.* Section 89030.1 of the Education Code is
7 amended to read:

8 89030.1. The trustees shall adopt, amend, or repeal
9 regulations pursuant to this section instead of pursuant to Chapter
10 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
11 Title 2 of the Government Code. As used in this section,
12 “regulation” means every rule, regulation, order, or standard of
13 general application or the amendment, supplement, or revision of
14 any rule, regulation, order, or standard adopted by the university
15 to implement, interpret, or make specific the law enforced or
16 administered by it, or to govern its procedure, except one that
17 relates only to the internal management of the university.
18 “Regulation” does not mean or include any form prescribed by the
19 university or any instructions relating to the use of the form, nor
20 does it mean or include a building standard as defined in Section
21 18909 of the Health and Safety Code.

22 (a) The trustees’ office of general counsel shall review the
23 proposed regulations for matters such as necessity, authority,
24 clarity, consistency, reference, and nonduplication, and
25 recommend any proposed action to the trustees. For purposes of
26 this section, “necessity,” “authority,” “clarity,” “consistency,”
27 “reference,” and “nonduplication” shall have the same meaning
28 as defined by Section 11349 of the Government Code.

29 (b) Notice of the proposed regulations shall be sent at least 45
30 days prior to the public hearing to those persons who have
31 requested notices of the meetings of the trustees and shall be

1 available to the public in electronic format. The notice shall
2 include the right of the public to comment orally or in writing on
3 the proposed action either prior to or during the public hearing.

4 (c) At the hearing, the public shall be provided the opportunity
5 to comment on the proposed action.

6 (d) The trustees shall maintain a rulemaking file containing the
7 public notice, public comments, and minutes of the public hearing,
8 including the action taken by the trustees.

9 (1) The rulemaking file shall contain a summary of each
10 objection or recommendation made with an explanation of how
11 the proposed action was changed to accommodate each objection
12 or recommendation, or the reason or reasons for making no
13 change.

14 (2) The proposed regulations shall be accompanied by an
15 estimate, prepared in accordance with instructions adopted by the
16 Department of Finance, of the effect of the proposed regulations
17 with regard to the costs or savings to any state agency, the cost of
18 any state-mandated local program as governed by Part 7
19 (commencing with Section 17500) of Division 4 of Title 2 of the
20 Government Code, any other costs or savings of local agencies,
21 and the costs or savings in federal funding provided to state
22 agencies.

23 (e) The trustees shall transmit the regulations as finally adopted
24 to the Secretary of State for filing. Each regulation shall be
25 effective upon filing with the Secretary of State, and shall be
26 published in the California Code of Regulations.